

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 600-2016-000831

KENNETH A. BRESLIN, PH.D.

8 Camino Encinas, Suite 210

Orinda, CA 94563-3350

Psychologist License No. PSY 7177


Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 10/18/2017.

It is so ORDERED 9/18/2017.



Antonette Sorrick
Executive Officer
Board of Psychology
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5723
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 600-2016-000831

13 **KENNETH A. BRESLIN, PH.D.**
14 **8 Camino Encinas, Suite 210**
15 **Orinda, CA 94563-3350**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Psychologist License No. PSY 7177**

Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Antonette Sorrick ("Complainant") is the Executive Officer of the Board of
21 Psychology ("Board"). She brought this action solely in her official capacity and is represented
22 in this matter by Xavier Becerra, Attorney General of the State of California, by Greg W.
23 Chambers, Deputy Attorney General.

24 2. Kenneth A. Breslin, Ph.D. ("Respondent") is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about January 4, 1982, the Board issued Psychologist License No. 7177 to
27 Respondent. The Psychologist License was in full force and effect at all times relevant to the
28

1 charges brought in Accusation No. 600-2016-000831 and will expire on November 30, 2017,
2 unless renewed.

3 JURISDICTION

4 4. Accusation No. 600-2016-000831 was filed before the Board of Psychology
5 ("Board"), and is currently pending against Respondent. The Accusation and all other statutorily
6 required documents were properly served on Respondent on October 10, 2016. Respondent
7 timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 600-
8 2016-000831 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 600-2016-000831. Respondent also has carefully read, and understands the
12 effects of this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No. 600-2016-
24 000831, if proven at a hearing, constitute cause for imposing discipline upon his Psychologist
25 License, No. 7177.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Psychologist License without further process.

5 CONTINGENCY

6 11. This stipulation shall be subject to approval by the Board. Respondent understands
7 and agrees that counsel for Complainant and the staff of the Board may communicate directly
8 with the Board regarding this stipulation and surrender, without notice to or participation by
9 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
10 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
11 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
12 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
14 be disqualified from further action by having considered this matter.

15 12. The parties understand and agree that Portable Document Format ("PDF") and
16 facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile
17 signatures thereto, shall have the same force and effect as the originals.

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 ORDER

21 IT IS HEREBY ORDERED that Psychologist License No. 7177, issued to Respondent
22 Kenneth A. Breslin, Ph.D., is surrendered and accepted by the Board of Psychology.

23 1. Respondent shall lose all rights and privileges as a Psychologist in California as of the
24 effective date of the Board's Decision and Order.

25 2. Respondent shall cause to be delivered to the Board his pocket license and, if one was
26 issued, his wall certificate on or before the effective date of the Decision and Order.

27 3. If Respondent ever files an application for licensure or a petition for reinstatement in
28 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must

1 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
2 effect at the time the petition is filed, and all of the charges and allegations contained in
3 Accusation No. 600-2016-000831 shall be deemed to be true, correct and admitted by Respondent
4 when the Board determines whether to grant or deny the petition.

5 4. If Respondent should ever apply or reapply for a new license or certification, or
6 petition for reinstatement of a license, by any other health care licensing agency in the State of
7 California, all of the charges and allegations contained in Accusation, No. 600-2016-000831 shall
8 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
9 Issues or any other proceeding seeking to deny or restrict licensure.

10 5. Respondent may not petition for reinstatement of a revoked or surrendered
11 license/registration for three years from the effective date of this Decision.

12 6. Respondent shall pay the Board its costs of investigation and enforcement in the
13 amount of \$16,606.50 prior to issuance of a new or reinstated license.

14 ACCEPTANCE

15 I have carefully read the Stipulated Surrender of License and Order. I understand the
16 stipulation and the effect it will have on my Psychologist License. I enter into this Stipulated
17 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
18 by the Decision and Order of the Board of Psychology.

19
20 DATED: 9-7-17

Kenneth A. Breslin, Ph.D.
KENNETH A. BRESLIN, PH.D.
Respondent

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: Sept. 7, 2017

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Greg W. Chambers

SF2016201844
41662488_2.doc

Exhibit A

Accusation No. 600-2016-000831

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5723
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PSYCHOLOGY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 600-2016-000831

11 **KENNETH A. BRESLIN, PH.D.**
12 **8 Camino Encinas, Suite 210**
13 **Orinda, CA 94563-3350**

A C C U S A T I O N

14 **Psychologist License No. 7177**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Antonette Sorrick ("Complainant") brings this Accusation solely in her official
19 capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.

20 2. On or about January 4, 1982, the Board of Psychology issued Psychologist License
21 Number 7177 to Kenneth A. Breslin, Ph.D. ("Respondent"). The Psychologist License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on November
23 30, 2017, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Psychology ("Board"), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.
28

1 4. Section 2960 of the Code provides in part that the Board may suspend or revoke
2 the registration or license of any registrant or licensee if the applicant, registrant, or licensee has
3 been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited
4 to: (i) violating any rule of professional conduct promulgated by the board and set forth in
5 regulations duly adopted under this chapter; (k) violating any of the provisions of this chapter or
6 regulations duly adopted thereunder; and (n) the commission of any dishonest, corrupt, or
7 fraudulent act.

8 5. Section 2936 of the Code provides in part that the Board shall establish as its
9 standards of ethical conduct relating to the practice of psychology, the "Ethical Principles of
10 Psychologists and Code of Conduct" published by the American Psychological Association
11 ("APA"). Those standards shall be applied by the board as the accepted standard of care in all
12 licensing examination development and in all board enforcement policies and disciplinary case
13 evaluations.

14 6. The APA promulgates the APA Ethical Principles of Psychologists and Code of
15 Conduct, which consists of General Principles and specific Ethical Standards. The Ethical
16 Standards set forth enforceable rules for conduct as psychologists. Psychologist conduct which
17 violates the APA Ethical Principles of Psychologists and Code of Conduct constitutes
18 unprofessional conduct and cause for discipline within the meaning of Code section 2936 and
19 section 2960, subdivision (i).

20 7. APA Ethical Principles of Psychologists and Code of Conduct (2010), Principle A:
21 Beneficence and Nonmaleficence states in pertinent part that:

22 Psychologists strive to benefit those with whom they work and take care to
23 do no harm. In their professional actions, psychologists seek to safeguard the
24 welfare and rights of those with whom they interact professionally and other
25 affected persons When conflicts occur among psychologists' obligations
26 or concerns, they attempt to resolve these conflicts in a responsible fashion
27 that avoids or minimizes harm. Because psychologists' scientific and
28 professional judgments and actions may affect the lives of others, they are
alert to and guard against personal, financial, social, organizational or
political factors that might lead to misuse of their influence. Psychologists
strive to be aware of the possible effect of their own physical and mental
health on their ability to help those with whom they work.

8. APA Ethical Principles of Psychologists and Code of Conduct (2010), 2.06 Personal Problems and Conflicts states:

(a) Psychologists refrain from initiating an activity when they know or should know that there is a substantial likelihood that their personal problems will prevent them from performing their work-related activities in a competent manner.

(b) When psychologists become aware of personal problems that may interfere with their performing work-related duties adequately, they take appropriate measures, such as obtaining professional consultation or assistance and determine whether they should limit, suspend or terminate their work-related duties.

9. California Code of Regulations, title 16, section 1394, provides that for the purposes of suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or registration under the Psychology Licensing Law (Chapter 6.6 of Division 2 of the Code), if to a substantial degree it evidences present or potential unfitness of a person holding a license or registration to perform the functions authorized by his or her license or registration or in a manner consistent with the public health, safety, or welfare.

COST RECOVERY

10. Section 125.3 of the Code provides in part that in any order issued in resolution of a disciplinary proceeding before any Board, the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. Additionally, Section 125.3 of the Code provides that a certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be *prima facie* evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

12. Further, Section 125.3 of the Code provides that where an order for recovery of costs is made and timely payment is not made as directed in the Board's decision, the Board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the Board may have as to any licensee to pay costs.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Substantially Related to the Practice of Psychology)

13. Respondent is subject to disciplinary action for unprofessional conduct under sections 2960, 2960(i), 2960(k), 2960(n) of the Code, and for violation of APA Ethical Principles in that on or about October 5, 2016, in Lafayette, California, Respondent was arrested for possession of child pornography. The circumstances are as follows:

14. On or about October 5, 2016, law enforcement officers discovered evidence of child pornography, including images and videos, on a laptop computer and three hard drives located inside the business "A Child's Point of View," located at 8 Camino Encinas, #210, Orinda, California. Law enforcement officers determined that there were approximately 9,000 photos in one folder alone.

15. "A Child's Point of View" is the child psychology practice owned and operated by Respondent.

16. On or about October 5, 2016, law enforcement discovered evidence of child pornography on a Toshiba laptop computer and on a thumbdrive, both of which were located at 3405 Moraga Boulevard, Lafayette, California.

17. Respondent resides at 3405 Moraga Boulevard, Lafayette, California and admitted to law enforcement that the Toshiba laptop computer belonged to him.

18. Images found on the Toshiba laptop computer include but are not limited to the following:

- a. A video of a young girl, approximately eleven to twelve years of age, masturbating, before what appears to be the hand of an adult male touches the child's vagina.
- b. A video of a young girl, approximately thirteen to fourteen years of age,

1 masturbating for the camera.

2 19. Images found on the thumbdrive located at Respondent's residence include but are
3 not limited to depictions of the following:

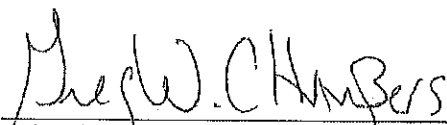
- 4 a. A young girl, approximately eight years old, nude, spreading her legs for the
5 camera.
6 b. A young girl, approximately eight years old, with a green glass bottle in front of
7 her vagina.
8 c. A young girl, approximately eight years old, in the bath with her legs spread
9 exposing her vagina.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Psychology issue a decision:

- 13 1. Revoking or suspending Psychologist License Number 7177, issued to Kenneth A.
14 Breslin, Ph.D.;
15 2. Ordering Kenneth A. Breslin, Ph.D. to pay the Board of Psychology the reasonable
16 costs of the investigation and enforcement of this case, and, if placed on probation, the costs of
17 probation monitoring;
18 3. Taking such other and further action as deemed necessary and proper.
19

20
21 DATED: October 10, 2016

22  on behalf of
23 ANTONETTE SORRICK
24 Executive Officer
25 Board of Psychology
26 Department of Consumer Affairs
27 State of California
28 Complainant

26 SF2016201844
27 81480207 (4).docx